

# **Exhibit A**

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**From:** Lauren Myers <[LMyers@KSLAW.com](mailto:LMyers@KSLAW.com)>

**Sent:** Monday, June 24, 2024 4:08 PM

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**Subject:** State of New Jersey v. USDOT, et al, 23-cv-3885 (LMG)

Dear Judge Gordon,

We respectfully write to update you, as we mentioned at the June 17 conference, that the parties had a “meet and confer” last Friday, and all agree that the reevaluation is not part of this administrative record and is a separate agency decision from the underlying decision now being reviewed by this Court. However, Plaintiff notes that, like the final tolling scheme, you may take judicial notice of the reevaluation. *See Nio v. U.S. Dep’t of Homeland Sec.*, 385 F. Supp. 3d 44, 61–62 (D.D.C. 2019) (“events that transpired after the challenged action may be considered if they bear upon the issues before the court,” including where “by the time judicial review is secured events may have progressed sufficiently to indicate the truth or falsity of agency predictions”) (citations omitted). But the parties are not asking the Court to delay resolution of this case because of the reevaluation.

Respectfully,  
Lauren

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